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City Council Regular Meeting Minutes

**Monday, December 13, 2021
Zoom Community Auditorium**

***Minutes are unofficial until approved by City Council.
Council approved minutes as presented January 24, 2022.***

A. Call to Order:

Mayor Truax called the regular City Council meeting to order at 7:01 p.m. via Zoom Webinar Video Conference. The meeting was held in a “hybrid” format allowing the public to attend both virtual and in-person in the Community Auditorium. Members of the public could observe the meeting **LIVE** on **Zoom Webinar** or on television on Tualatin Valley Community Television (TVCTV) Government Access Programming.

1. **ROLL CALL: COUNCIL PRESENT ATTENDED BY ZOOM WEBINAR:** Donna Gustafson; Kristy Kottkey; Timothy Rippe; Mariana Valenzuela; Malynda Wenzl; and Mayor Peter Truax. **COUNCIL ABSENT:** Elena Uhing.
2. **STAFF PRESENT ATTENDED BY ZOOM WEBINAR:** Jesse VanderZanden, City Manager; Chris Crean, City Attorney; Paul Downey, Assistant City Manager/Finance Director; Jim Geering, Fire Chief; Bryan Pohl, Community Development Director; Gregory Robertson, Public Works Director; Dan Riordan, Senior Planner; and Anna Ruggles, City Recorder.
3. **EMPLOYEE RECOGNITIONS:**
 - Fire Chief Geering presented a Certificate of Retirement and plaque, on behalf of City Council, honoring **Joe Smith, Fire Captain**, for his exceptional employment, noting Smith is retiring after 35 years of dedicated service to the Forest Grove Fire and Rescue.
 - Fire Chief Geering presented a Certificate of Retirement and plaque, on behalf of City Council, honoring **Chris Woodford, Fire Captain**, for his exceptional employment, noting Woodford is retiring after 30 years of dedicated service to the Forest Grove Fire and Rescue.

B. Public Comment:

1. CC12-13-2021 Written Public Comments received by 3:00 p.m. on the day of the meeting were published in the Council Packet.

No testimony was heard via Zoom.

C. Consent Agenda:

1. Approve City Council Executive Session (Labor Negotiations) Meeting Minutes of November 22, 2021.
2. Approve City Council Regular Meeting Minutes of November 22, 2021.
3. Accept Library Commission Meeting Minutes of October 19, 2021.
4. Accept Planning Commission Meeting Minutes of May 17, 2021.
5. Accept Public Arts Commission Meeting Minutes of October 21, 2021.
6. Accept Sustainability Commission Meeting Minutes of October 28, 2021.
7. Community Development Department Monthly Building Activity Informational Report for November 2021.
8. **RESOLUTION NO. 2021-63 MAKING APPOINTMENTS AND REAPPOINTMENTS TO CITY OF FOREST GROVE ADVISORY BOARDS, COMMITTEES AND COMMISSIONS.**

MOTION: Council President Wenzl moved, seconded by Councilor Kottkey, to approve the Consent Agenda as presented. **VOICE VOTE:** AYES: Councilors Gustafson, Kottkey, Rippe, Valenzuela, Wenzl, and Mayor Truax. NOES: None. ABSENT: Councilor Uhing. **MOTION CARRIED 6-0.**

D. Additions/Deletions:

1. City Manager – none.
2. Proposed by Councilors – none.

E. Presentations:

1. Severe Rent Burden Annual Report (HB 4006)

Staff: Dan Riordan, Senior Planner, and Bryan Pohl, Community Development Director Presented a PowerPoint presentation overview of the City's Severe Rent Burden Annual Report (HB 4006), noting based on information provided by the State, 32.4 percent (1,077 households) of renter households in Forest Grove experience severe rent burden. In addition, staff outlined some solutions that could help resolve some of the severe rent burden, such as continuing partnerships with outside agencies; actively engaging in State policy initiatives to assist renters facing eviction and property owners not receiving rent; implementing middle housing law (HB 2001) to increase opportunities of diverse housing types and needs; and right size impact fees for smaller homes, specifically accessory dwellings.

F. Public Hearings, Ordinances, and Resolutions:

1. **ORDINANCE 2021-05 SECOND READING CONTINUE PUBLIC HEARING; ANNEXING 24.5 +/- ACRES OF LAND INTO THE CITY LIMITS OF FOREST GROVE AND CLEAN WATER SERVICES DISTRICT AND WITHDRAWING THE TRACT FROM THE FOREST GROVE RURAL FIRE PROTECTION DISTRICT; WASHINGTON COUNTY TAX LOT 1N330000100; FILE NO. 311-21-000037-PLNG**
The first reading of Ordinance No. 2021-05 by title and motion to adopt occurred at the meeting of November 22, 2021.

Staff Report:

Riordan presented the above-proposed ordinance for second reading, noting staff received written public comment as noted below. Riordan had nothing further to report.

Public Hearing Continued:

Mayor Truax continued the Public Hearing from the meeting of November 22, 2021, and explained hearing procedures.

Written Objections/Written Testimony Received:

Kerry W. VanderZanden, Forest Grove, submitted a letter dated December 2, 2021 (traffic concerns).

No other written testimony was received.

Proponents:

Ryan O'Brien, representing applicant/property owner, testified in support of the proposed annexation.

No one else testified and no written comments were received.

Opponents:

No one testified and no written comments were received.

Others:

No one testified and no written comments were received.

Public Hearing Closed:

Mayor Truax closed the Public Hearing.

Questions of Staff:

Riordan addressed various concerns pertaining to traffic impacts, noting the annexation will allow for the extension of Main Street, north of David Hill Road through the subject property. The proposed Comprehensive Plan Map amendment does not affected the future extension of Main Street. Future development impacts will be addressed as part of the development review process that will occur after the property is annexed.

Council Discussion:

Hearing no further concerns from the Council, Mayor Truax asked for a roll call vote on the motion made at the meeting of November 22, 2021.

VanderZanden read Ordinance No. 2021-05 by title for second reading.

ROLL CALL VOTE: AYES: Councilors Gustafson, Kottkey, Rippe, Valenzuela, Wenzl, and Mayor Truax. NOES: None. ABSENT: Councilor Uhing. MOTION CARRIED 6-0.

2. **ORDER NO. 2021-01 PUBLIC HEARING; AMENDING FOREST GROVE COMPREHENSIVE PLAN MAP FOR PROPERTY SUBJECT TO ANNEXATION; WASHINGTON COUNTY TAX LOT 1N330000100; FILE NO. 311-21-000037-PLNG**
3. **ORDER NO. 2021-02 PUBLIC HEARING; AMENDING FOREST GROVE ZONING MAP FOR PROPERTY SUBJECT TO ANNEXATION; WASHINGTON COUNTY TAX LOT 1N330000100; FILE NO. 311-21-000037-PLNG**

Staff Report:

Riordan and Pohl presented the above-proposed Orders, noting Order No. 2021-01 is requesting to re-designate approximately 1.5 acres of land from Public to Medium Density Residential (MDR) and Order No. 2021-02 is requesting to re-designate property zoned Washington County Future Development (FD-20) to Forest Grove Neighborhood Mixed Use (NMU) and Residential Multifamily Low (RML) zoning designations consistent with the Comprehensive Plan Map for property annexed into the City limits; Washington County Tax Lot 1N330000100; Applicant: Ryan O'Brien, representing property owner, Davis Family Trust; File No. 311-21-000037-PLNG. Riordan presented a PowerPoint Presentation overview of the staff report, including a summary of the proposals, maps of the existing and proposed Comprehensive Plan Map and Zoning Map designations as well as required approval and analysis of decision criteria for map amendments, and Planning Commission Findings and Decision No. 2021-04. Riordan advised the Comprehensive Plan Map Amendment affects about 1.5 acres of land (entire site is approximately 24.5 acres), noting the 1.5 acres of land was designated as a "placeholder" for a possible future fire station as described in the Westside Refinement Plan and as shown on the Comprehensive Plan Map. The property owner has initiated changes to the zoning. If the zoning change is initiated, a concurrent Comprehensive Plan Map is required to ensure the Comprehensive Plan (policy) and Zoning Map (regulation) are consistent. In conclusion of the above-noted staff report, Riordan and Pohl advised staff is recommending Council adopt proposed Order No. 2021-01, as outlined in Exhibit A and Exhibit B, and Order No. 2021-02, as outlined in Exhibit A and Exhibit B, and as recommended in Exhibit C, Planning Commission Findings and Decision No. 2021-04; File No. 311-21-000037-PLNG.

Questions of Staff:

Riordan and Pohl addressed various concerns pertaining to Agenda Item F. 1. Order 2021-01, Comprehensive Plan Map Amendment (1.5 acres of land being re-designated from Public to MDR), noting the Westside Plan was adopted in 2017 and identified areas for residential, mixed use and public uses (Institutional Zoning), including a park, elementary school and fire station. The "placeholder" was intended to be a possible location for a new fire station; however, the placeholder does not convey any ownership interest to the City, it simply indicates a potential public need and provides an opportunity for the City to negotiate to

acquire the property. Staff noted if the City desires to retain the 1.5 acres of land, the City must acquire the property within 18 months following approval of a development application, and the purchase price must be agreed upon prior to a final land use approval or the land must be released to the property owner/developer. Additionally, Riordan and Pohl addressed concerns regarding Agenda Item F. 1. Order 2021-01, Zoning Map Amendment, re-designating property annexed into the City limits, noting except for the 1.5 acres of land, the remainder of the property would be zoned consistent with the Comprehensive Plan Map. Riordan referenced a map showing the Comprehensive Plan Map Amendment on Page 2 of the staff report, noting the 1.5 acres of land is identified as buildable land and could contribute to the City's housing needs. Pohl and Riordan outlined the Council's decision alternatives as noted on Page 5 of the staff report, noting staff is recommending the City initiate a process at a later date to refine the scope of the fire station project, identify alternative locations, and prepare a strategy for funding property acquisition.

Fire Chief Geering concurred, noting there is a desire for a future fire station to serve the areas west of Thatcher Road and Highway 47; however, the 1.5 acres of land is unsuitable and is no longer being considered for a fire station. Geering noted the City would likely want to acquire a larger scale parcel, preferably slightly east and closer to the roundabout.

Public Hearings (refer to Motion below):

The Public Hearings were continued to January 24, 2022, for Agenda Item F. 1. Order 2021-01, and Agenda Item F. 1. Order 2021-01. The applicant/property owner's representative was given an opportunity to provide testimony as noted below.

Ryan O'Brien, representing applicant/property owner, testified in support of the proposed Orders, noting he concurs with staff and the Fire Chief that the 1.5 acres of land is too small for a fire station. O'Brien added the applicant is on a very tight timeline, noting the development application still has to be reviewed by the Planning Commission and delaying a decision could result in the project not proceeding.

City Attorney Crean addressed the applicable ORS provisions, hearing procedures and applicable provisions for acquiring property. Crean advised the City must approve a zoning designation upon annexing property and if the Comprehensive Plan Map Amendments are not approved, the Zoning Map Amendments cannot be approved, noting the Council is required to reach a decision.

The following motion to TABLE was made as noted below.

MOTION TO TABLE ORDER NOS. 2021-01 AND 2021-02: Councilor Gustafson moved, seconded by Council President Wenzl, to request that staff schedule a Council work session on January 10, 2022, and TABLE Order Nos. 2021-01 and 2021-02 to January 24, 2022; File No. 311-20-00037-PLNG.

Hearing no further concerns from the Council, Mayor Truax asked for a roll call vote on the above motion to TABLE.

ROLL CALL VOTE: AYES: Councilors Gustafson, Rippe, Valenzuela, and Wenzl. NOES: Kottkey and Mayor Truax. ABSENT: Councilor Uhing. MOTION CARRIED 4-2.

4. Council recessed at 8:43 p.m. and reconvened at 8:55 p.m.

5. **RESOLUTION NO. 2021-59 CONTINUE INFORMATIONAL PUBLIC HEARING; FORMATION OF PROPOSED REIMBURSEMENT DISTRICT PURSUANT TO CITY CODE SECTIONS 151.110 TO 151.124, WAUNA CREDIT UNION PUBLIC IMPROVEMENT REIMBURSEMENT DISTRICT**

Staff Report:

Robertson presented the above-proposed resolution for Council consideration, noting the Council heard the staff report at the Council meeting of November 22, 2021, and continued the hearing to December 13, 2021, to allow a major property owner, who was unable to attend, an opportunity to attend the continuation hearing and provide testimony. Robinson referenced written testimony received as noted below. Crean referenced the City Attorney's letter addressed to Council dated December 13, 2021, noting the City Attorney does not believe that any of the issues raised in opposition provide a legal basis to deny the petition. In conclusion of the above-noted staff report, Robertson advised staff is recommending Council approve the proposed resolution, as outlined in Exhibit A, Engineers Report dated November 22, 2021.

Before proceeding with the Public Hearing, Mayor Truax asked for a motion to adopt Resolution No. 2021-59.

VanderZanden read Resolution No. 2021-59 by title.

MOTION: Councilor Gustafson moved, seconded by Councilor Rippe, to adopt Resolution No. 2021-59 Formation of a Proposed Reimbursement District, Pursuant to City Code Sections 151.110 through 151.124, "Wauna Credit Union Public Improvement Reimbursement District".

Informational Public Hearing Continued:

Mayor Truax continued the Public Hearing from the meeting of November 22, 2021, and explained hearing procedures.

Written Testimony Received:

Michael Robinson, Schwabe Williamson & Wyatt, representing Jesse Nemec, J. T. Smith Companies, submitted written testimony dated December 10, 2021.

No other written testimony was received.

Proponents:

Debi Smiley, Chief Marketing Officer, Wauna Credit Union, Forest Grove, applicant, testified in support of their proposed petition.

No one else testified and no written comments were received.

Opponents:

Jesse Nemec, J. T. Smith Companies, testified in opposition and asked to deny the proposed petition.

Erin Forbes, Attorney, Schwabe Williamson & Wyatt, representing Jesse Nemec, J. T. Smith Companies, asked to deny the proposed petition for the reasons cited in their written testimony dated December 10, 2021. Forbes addressed inquiries pertaining to the reasons their client was in opposition. In addition, Forbes raised concerns because they have not reviewed a copy of the City Attorney's letter referenced above.

No one else testified and no written comments were received.

Others:

No one testified and no written comments were received.

Public Hearing Closed:

Mayor Truax closed the Public Hearing.

Council Discussion:

Hearing no further concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Gustafson, Kottkey, Rippe, Valenzuela, Wenzl, and Mayor Truax. NOES: None. ABSENT: Councilor Uhing. MOTION CARRIED 6-0.

6. **ORDINANCE NO. 2021-06 FIRST READING; RENEWING A FRANCHISE FOR ZIPLY FIBER NORTHWEST, LLC, A DELAWARE LIMITED LIABILITY CORPORATION, TO CONDUCT A GENERAL TELECOMMUNICATIONS BUSINESS AND GRANTING A RIGHT TO USE PUBLIC RIGHTS-OF-WAY WITHIN THE CITY**

Staff Report:

Downey presented the above-proposed ordinance for first reading, noting the proposed ordinance is renew the franchise for Ziplly Fiber Northwest LLC to conduct a general telecommunications business and granting use of public rights-of-way within the City, noting the existing franchise expires December 27, 2021. Downey reported Verizon Northwest was

originally granted a 15-year franchise, effective December 21, 2006, noting the franchise was transferred to Frontier and more recently to Ziplly Northwest LLC. The franchise is for the telecommunications services (land-lines) that Ziplly provides. It is a non-exclusive franchise which means another entity could ask to provide land-line telephone services in the City.

Downey outlined the major changes to the franchise as follows:

- Changing the name to Ziplly Fiber Northwest LLC
- Reducing the term of the franchise to five years or until the date a City Rights-of-Way ordinance becomes effective, whichever comes first.
- Changing the payment date of the franchise fee to once a year based on the calendar year.

In conclusion of the above-noted staff report, Downey advised staff is recommending Council approve the proposed ordinance, as outlined in Exhibit A, noting Ziplly must pay the City a privilege tax in the amount of seven percent (7%) of the gross revenues as defined in ORS.

Before proceeding, Mayor Truax asked for a motion to adopt Ordinance No. 2021-06 for first reading.

VanderZanden read Ordinance No. 2021-06 by title for first reading.

MOTION: Councilor Rippe moved, seconded by Councilor Valenzuela, to adopt Ordinance No. 2021-06 Renewing a Franchise for Ziplly Fiber Northwest, LLC, a Delaware Limited Liability Corporation, to Conduct a General Telecommunications Business and Granting a Right to Use Public Rights-of-Way within the City.

Written Testimony Received:

No written testimony was received.

Council Discussion:

Hearing no concerns from the Council, Mayor Truax continued Ordinance No. 2021-06 by title for second reading to January 10, 2021.

7. RESOLUTION NO. 2021-64 APPROVING THE USE OF FISCAL YEAR 2021-22 AMERICAN RESCUE PLAN ACT FUNDS AS RECOMMENDED BY A SUBCOMMITTEE OF THE CITY OF FOREST GROVE BUDGET COMMITTEE

Staff Report:

Downey presented the above-proposed resolution for Council consideration, noting the resolution is approving the use of Fiscal Year 2021-22 American Rescue Plan Act Funds (ARPA) as recommended by a subcommittee of the Budget Committee. Downey reported the subcommittee made recommendations on how to spend the 20 percent of the City's ARPA funds allocated to: 1) support public health expenditures; 2) address negative impacts caused

by the public health emergency; and 3) provide premium pay for essential workers. The subcommittee recommended the funding amounts for three specific programs as follows:

1. \$300,000 for a Small Business Assistance Grant program. Staff is authorized to administer the final program.
2. Up to \$5,000 per month (total of up to \$120,000) for the Forest Grove Foundation to a lease a facility for an essential services hub. If the Foundation finds a building to purchase during the two years, the Foundation can use the balance of the lease funds not spent to help purchase the building (i.e. down payment) if it is permitted to do so with ARPA funding.
3. \$147,000 to Habitat for Humanity for critical home repairs and home repair services for low-income, elderly, disabled and veteran families in Forest Grove affected by COVID.

In conclusion of the above-noted staff report, Downey advised staff is recommending Council consider approving the proposed resolution as outlined in Exhibit A, noting there is no impact to the City's regular operating budget as funds will be allocated from ARPA funds received in the current fiscal year.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2021-64.

VanderZanden read Resolution No. 2021-64 by title.

MOTION: Councilor Rippe moved, seconded by Council President Wenzl, to adopt Resolution No. 2021-64 Approving the use of Fiscal Year 2021-22 American Rescue Plan Act Funds as Recommended by a Subcommittee of the City of Forest Grove Budget Committee.

Council Discussion:

Hearing no concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Gustafson, Kottkey, Rippe, Valenzuela, Wenzl, and Mayor Truax. NOES: None. ABSENT: Councilor Uhing. MOTION CARRIED 6-0.

8. **RESOLUTION NO. 2021-65 AUTHORIZING CITY MANAGER TO PARTICIPATE IN THE INTRA-STATE OPIOID DISTRIBUTOR/MANUFACTURER SETTLEMENT; TO SIGN A RELEASE WHEREBY THE CITY WOULD WAIVE THE RIGHT TO FILE FUTURE CLAIMS AGAINST THE NAMED DISTRIBUTORS AND MANUFACTURER; AND TO SIGN THE INTRA-STATE SETTLEMENT AGREEMENT ON BEHALF OF THE CITY; BOTH OF WHICH ARE CONTINGENT ON THE CITY ATTORNEY'S REVIEW AND APPROVAL**

Staff Report:

VanderZanden presented the above-proposed resolution for Council consideration, noting the resolution is authorizing the City to participate in the intra-state opioid distributor/manufacturer settlement; to sign a release whereby the City would waive the right to file future claims against the named distributors and manufacturer; and to sign the intra-state settlement agreement on behalf of the City; both of which are contingent on the City Attorney's review and approval. VanderZanden advised non-litigating entities that wish to participate must agree to do so no later than January 2, 2022. In conclusion of the above-noted staff report, VanderZanden advised staff is recommending Council consider approving the proposed resolution as outlined in Exhibit A, noting if Oregon receives 100 percent of the funding based on the incentives, the City is estimated to receive \$444,776 to spend on opioid abatement. The payments will be made over an 18-year period. VanderZanden referenced Exhibit E to the proposed Settlement Agreement, which listed the allowed uses of opioid remediation uses.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2021-65.

VanderZanden read Resolution No. 2021-65 by title.

MOTION: Councilor Gustafson moved, seconded by Council President Wenzl, to adopt Resolution No. 2021-65 Authorizing City Manager to Participate in the Intra-State Opioid Distributor/Manufacturer Settlement; to Sign a Release Whereby the City Would Waive the Right to File Future Claims Against the Named Distributors and Manufacturer; and to Sign the Intra-State Settlement Agreement on Behalf of the City; Both of Which are Contingent on the City Attorney's Review and Approval.

Council Discussion:

Hearing no concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Gustafson, Kottkey, Rippe, Valenzuela, Wenzl, and Mayor Truax. NOES: None. ABSENT: Councilor Uhing. MOTION CARRIED 6-0.

G. Council Communications:

1. Councilor Reports

Gustafson reported Pacific University's vaccination clinic was extremely successful. Gustafson attended the City's light parade.

Kottkey's written report was distributed in the Council Packet. Kottkey briefed on Community Policing Advisory Commission's (CPAC)-related matters of interest, noting CPAC is inviting Council to attend their monthly meeting starting in January with Mayor Truax and Rippe.

Rippe briefed on Council Creek Regional Trail Corridor-related matters of interest. Rippe attended the City's light parade.

Valenzuela briefed on Centro Cultural vaccination clinic event.

Uhing was absent.

Council President Wenzl briefed on Committee for Community Involvement (CCI)-related matters of interest, noting CCI is streamlining its member orientation and is seeking questions from Council to poll for the Annual Town Meeting. In addition, Wenzl encouraged returning to in-person meetings, noting it is very difficult to follow a PowerPoint presentation and conduct communication engagement on an electronic device and/or computer monitor.

2. City Manager's Report

VanderZanden briefed on the various department-related projects and activities and Council calendar updates. VanderZanden reported on the status of the levy focus groups. In addition, VanderZanden commended the Holiday Parade organizers and city staff, noting the light parade was an outstanding community event.


3. Mayor's Report

Mayor Truax reported testifying in support of Senate Bill 891, noting the bill extends the safe harbor period for tenants who have applied for emergency rental assistance and provides support for rental assistance program. In addition, Mayor Truax briefed on various meetings he attended, community-related events and Washington County-related matters of interest.

H. Adjournment:

Mayor Truax adjourned the regular Council meeting at 10:20 p.m.

Respectfully submitted,



Anna D. Ruggles, CMC, City Recorder